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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/007,355	11/07/2001	Mitchell D. Eggers	GENV-002/00US 300805-2003	3570
58349 7590 08/19/2008 COOLEY GODWARD KRONISH LLP ATTN: Patent Group Suite 1100 777 - 6th Street, NW WASHINGTON, DC 20001				
EXAMINER				
ALEXANDER, LYLE				
ART UNIT		PAPER NUMBER		
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MAIL DATE		DELIVERY MODE		
08/19/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* MITCHELL D. EGGERS

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Appeal 2008-2172  
Application 10/007,355  
Technology Center 1700

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Decided: August 19, 2008

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Before BRADLEY R. GARRIS, CHARLES F. WARREN, and  
KAREN M. HASTINGS, *Administrative Patent Judges*.

WARREN, *Administrative Patent Judge*.

Applicant appeals to the Board from the decision of the Primary Examiner finally rejecting claims 1 through 40 and 59 through 69 in the Office Action mailed December 8, 2005. 35 U.S.C. §§ 6 and 134(a) (2002); 37 C.F.R. § 41.31(a) (2006).

ORDER REQUIRING ADDITIONAL  
BRIEFING BY APPELLANT

We order Appellant to additionally brief the following matter.  
37 C.F.R. §41.50(d)(2006); Manual of Patent Examining Procedure (MPEP)  
§ 1212 (8th ed., Rev. 3, August 2005).

The appealed claims, as represented by independent claim 1, specify a sample carrier comprising at least, among other things, “discreet sample nodes being removably attached . . . at a respective attachment point.” Appellant responds to the Examiner’s grounds of rejection (Ans. 4-7) with the contention, among others, that the applied “references are silent regarding the attachment [point].” Br., e.g., 6-7, and 9. Appellant further contends that this position is supported by testimonial evidence in a Declaration under 37 C.F.R. § 1.132. Br. 10-11.

However, the “IX. Evidence Appendix” submitted with the Brief filed June 4, 2007, contains only the word “None.” Br. 18. 37 C.F.R. §41.37(c)(ix) requires, in pertinent part, “[a]n appendix containing copies of any evidence submitted pursuant to § . . . 1.132 . . . entered by the examiner and relied upon by appellant in the appeal, along with a statement setting forth where in the record that evidence was entered in the record by the examiner.” *See also* MPEP § 1205.02 (8th ed., Rev. 3, August 2005).

Accordingly, Appellant is hereby ORDERED to complete the briefing of the issues on Appeal by submission of an Evidence Appendix containing a copy of the Declaration Under 37 C.F.R. § 1.132 relied on in the Brief and a statement setting forth where the Examiner entered the evidence in the record as required by 37 C.F.R. §41.37(c)(ix).

Appellants have a non-extendable time period of ONE (1) MONTH within which to respond to this Order. Failure to timely comply with this Order may result in *sua sponte* dismissal of the appeal. 37 C.F.R. §41.50(d)(2006); MPEP § 1212 (8th ed., Rev. 3, August 2005).

No time period for taking any subsequent action in connection with this appeal may be extended. 37 C.F.R. § 1.136(a)(1)(iv) (2007).

ORDERED

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